

JS 44 (Rev. 12/07) (and rev 1-16-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

ERIC SEDIE

DEFENDANTS

UNITED STATES POSTAL SERVICE AND DOES 1 TO 50

(b) County of Residence of First Listed Plaintiff MARIN
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

SANFORD M. CIPINKO, ESQ.
LAW OFFICES OF SANFORD M. CIPINKO
55 FRANCISCO STREET, SUITE 403
SAN FRANCISCO, CA 94133 / TEL: (415) 693-9905

Attorneys (If Known)

E-filing EDL ADR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Overpayment of Veteran's Benefits	<input checked="" type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	PRISONER PETITIONS	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability		Habeas Corpus:	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 530 General	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 555 Prison Condition	IMMIGRATION		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare		<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment		<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other		<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights				

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Federal Tort Claims Act 28 USC section 2671

Brief description of cause:

Negligent driving by U.S. Postal Service employee, which resulted in an incident and injuries to Plaintiff

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$ 10,001,500.00CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE

6/26/08

SIGNATURE OF ATTORNEY OF RECORD

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Attorneys for Plaintiff
ERIC SEDIE

E-filing

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ERIC SEDIE,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE.
DOES 1 TO 50, inclusive,
Defendants.

CIVIL ACTION NO:

COMPLAINT

3095

EDL

Plaintiff, complaining of Defendant, alleges:

1. This action arises under the Federal Tort Claims Act, 28 USC §2671 et seq. and this Court's jurisdiction under the provision of 28 USC §1346(b).

2. Plaintiff, Eric Sedie is a citizen and resident of Marin County, California, and the cause of action upon which this action is based arose in this county. Thus venue is properly laid in this Court.

3. On or about September 23, 2006, Plaintiff was riding his bicycle in the west bound lane on Paradise Drive in the town of Corte Madera, California.

4. Mr. Sedie is an experienced bicyclist, and he regularly rides through Corte Madera as part of his weekly 75-mile route.

1 5. United States Postal Service truck driven by Glen Christopher De La Cruz
2 Rafael had just finished delivering mail to 5124 Paradise Drive. His postal truck was
3 parked in a private driveway at this location. Mr. Rafael pulled out of the private
4 driveway without looking and, as a result of his carelessness, failed to notice Mr.
5 Sedie's 20-25 mile per hour approach.

6 6. By the time Mr. Rafael's postal truck became visible to Mr. Sedie, only 5-8
7 feet separated the two vehicles. Mr. Sedie slammed into the front end of the postal
8 truck, and this impact violently threw Mr. Sedie over the front handlebars of his bicycle.
9 Mr. Sedie suffered a second, equally severe impact when his body collided with the
10 concrete pavement on the eastbound side of Paradise Drive.

11 7. Mr. Rafael was negligent in that he failed to yield to approaching traffic
12 and pulled out his truck from the private driveway without looking. Mr. Rafael failed to
13 act reasonably and prudently under the circumstances. His negligence and
14 carelessness constitute the direct cause of the collision.

15 8. Mr. Rafael's negligence occurred during the course and scope of his
16 employment with the United States Postal Service. Consequently, the United States
17 Postal Service is responsible for all damages Mr. Sedie has suffered and continues to
18 suffer as a result of the accident.

19 9 In addition to other severe and permanent injuries, Plaintiff Eric Sedie
20 sustained a herniated disk with a posterior annular tear at L4-5, cervical spine disc
21 protrusion at C5-6 and C6-7 as well as right shoulder tendinosis and rotator cuff injury.

22 10. As a direct and proximate result of these injuries, Plaintiff Eric Sedie has
23 endured and will continue to endure, great pain and suffering and mental anguish.

24 11. Plaintiff has expended and continues to expend large sums for medical
25 expenses.

26 12. Plaintiff Eric Sedie is 32 years of age. As a result of these injuries
described above, he had to undergo a back surgery, physical therapy and multiple

1 spinal injections. He has been unable to resume work nor has he been able to engage
2 in any of the recreational or sporting activities he once enjoyed.


3 13. Plaintiff's high performance bicycle sustained extensive damage.
4 Estimated repairs to the bicycle will cost over \$1,500.00.

5 14. On December 14, 2007, 2003, Plaintiff submitted his claim in the amount
6 of \$10,001,500.00, to the United States Postal Service along with a demand letter
7 describing the extent of Mr. Sedie's injuries. On February 11, 2008, Gwen Murray,
8 Paralegal Specialist for the United States Postal Service responded to the claim stating
9 that she is "in the process of reviewing this claim." On March 28, 2008, Plaintiff sent a
10 latter to Ms. Murray asking about the status of her claim review. As of this date, the
11 Untied States Postal Service has neither accepted nor rejected the Plaintiff's claim and,
12 pursuant to 28 USC §2675(a), Plaintiff has elected to consider such failure to act as a
13 final denial of the claim.

14 WHEREFORE, Plaintiff demands judgment against Defendant Untied States of
15 America as follows:

- 16 1. The sum of \$10,001,500.00 for Plaintiff Eric Sedie for past and future medical
17 expenses, loss earnings, loss of future earnings, property damage and pain and
18 suffering;
19 2. Costs in this action; and,
20 3. Such other relief as the Court may deemed proper.


21 DATED: June 26, 2008

22 
23 _____
24 SANFORD M. CIPINKO
25 Attorney for Plaintiff

26 **JURY DEMAND**

Plaintiff hereby demands jury trial in this matter.

DATED: June 26, 2008



SANFORD M. CIPINKO
Attorney for Plaintiff